

Senate File 2199 - Introduced

SENATE FILE 2199
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 3026)

A BILL FOR

1 An Act relating to interpreters and translators for limited
2 English proficient participants in legal proceedings and in
3 court-ordered programs.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 232.141, subsections 1 and 2, Code 2014,
2 are amended to read as follows:

3 1. Except as otherwise provided by law, the court shall
4 inquire into the ability of the child or the child's parent
5 to pay expenses incurred pursuant to subsections 2, 4, and 8.
6 After giving the parent a reasonable opportunity to be heard,
7 the court may order the parent to pay all or part of the costs
8 of the child's care, examination, treatment, legal expenses,
9 or other expenses, excluding the costs and fees of interpreter
10 and translator services. An order entered under this section
11 does not obligate a parent paying child support under a custody
12 decree, except that part of the monthly support payment may be
13 used to satisfy the obligations imposed by the order entered
14 pursuant to this section. If a parent fails to pay as ordered,
15 without good reason, the court may proceed against the parent
16 for contempt and may inform the county attorney who shall
17 proceed against the parent to collect the unpaid amount. Any
18 payment ordered by the court shall be a judgment against each
19 of the child's parents and a lien as provided in section
20 624.23. If all or part of the amount that the parents are
21 ordered to pay is subsequently paid by the county or state,
22 the judgment and lien shall thereafter be against each of the
23 parents in favor of the county to the extent of the county's
24 payments and in favor of the state to the extent of the state's
25 payments.

26 2. All of the following juvenile court expenses are a charge
27 upon the county in which the proceedings are held, to the
28 extent provided in subsection 3:

29 a. Juvenile court expenses incurred by an attorney appointed
30 by the court to serve as counsel to any party or to serve as a
31 guardian ad litem for any child, including fees and expenses
32 for ~~foreign language interpreters, costs of depositions and~~
33 transcripts, fees and mileage of witnesses, and the expenses of
34 officers serving notices and subpoenas.

35 b. Reasonable compensation for an attorney appointed by the

1 court to serve as counsel to any party or as guardian ad litem
2 for any child in juvenile court.

3 ~~e. Fees and expenses incurred by the juvenile court for~~
4 ~~foreign language interpreters for court proceedings.~~

5 Sec. 2. Section 602.1302, subsection 3, Code 2014, is
6 amended to read as follows:

7 3. A revolving fund is created in the state treasury for
8 the payment of jury and witness fees, mileage, costs related to
9 summoning jurors by the judicial branch, costs and fees related
10 to the management and payment of interpreters and translators
11 in judicial branch legal proceedings and court-ordered
12 programs, and attorney fees paid by the state public defender
13 for counsel appointed pursuant to section 600A.6A. The
14 judicial branch shall deposit any reimbursements to the state
15 for the payment of jury and witness fees and mileage in the
16 revolving fund. In each calendar quarter the judicial branch
17 shall reimburse the state public defender for attorney fees
18 paid pursuant to section 600A.6B. Notwithstanding section
19 8.33, unencumbered and unobligated receipts in the revolving
20 fund at the end of a fiscal year do not revert to the general
21 fund of the state. The judicial branch shall on or before
22 February 1 file a financial accounting of the moneys in the
23 revolving fund with the legislative services agency. The
24 accounting shall include an estimate of disbursements from the
25 revolving fund for the remainder of the fiscal year and for the
26 next fiscal year.

27 Sec. 3. Section 622A.1, Code 2014, is amended by striking
28 the section and inserting in lieu thereof the following:

29 **622A.1 Definitions.**

30 As used in this chapter, unless the context otherwise
31 requires:

32 1. "*Administrative agency*" means any department, board,
33 commission, or agency of the state or any political subdivision
34 of the state.

35 2. "*Court-ordered program*" means any activity in which a

1 court orders a party to participate and which is not supervised
2 by the department of corrections or the department of human
3 services.

4 3. "*Interpreter*" means a person who can accurately transfer
5 the meaning of words, phrases, or signs in one language into
6 the equivalent words, phrases, or signs in another language
7 and includes an oral language interpreter and a sign language
8 interpreter.

9 4. "*Legal proceeding*" means any action before any
10 court, whether civil, criminal, or juvenile in nature,
11 or any proceeding before any administrative agency which
12 is quasi-judicial in nature and which has direct legal
13 implications to any person. "*Legal proceeding*" includes any
14 legal action preparatory to appearing before any court or
15 administrative agency.

16 5. "*Limited English proficient*" means the inability to
17 adequately understand or effectively communicate in the English
18 language because a person's primary language is a language
19 other than English.

20 6. "*Oral language interpreter*" means an interpreter who is
21 able to interpret from one oral language into a second oral
22 language and from the second oral language into the first oral
23 language.

24 7. "*Participant*" means a party, witness, attorney, or child,
25 including a child who is or may be the subject of a delinquency
26 petition; a parent, guardian, or custodian, whose child is or
27 may be the subject of a delinquency petition; or a person who
28 is a guardian, conservator, or trustee in a probate case.

29 8. "*Sign language interpreter*" means an interpreter who is
30 able to interpret from sign language into an oral language and
31 from that oral language into sign language.

32 9. "*Translator*" means a person who can accurately transfer
33 the meaning of written words and phrases in one language into
34 the equivalent written words and phrases in another language.

35 Sec. 4. Section 622A.2, Code 2014, is amended to read as

1 follows:

2 **622A.2 Who entitled to interpreter or translator.**

3 1. Every limited English proficient person who cannot speak
4 or understand the English language and who is a party to any
5 is a participant in a legal proceeding or a witness therein,
6 court-ordered program shall be entitled to an interpreter to
7 assist such person throughout the proceeding or program.
8 2. A person described in subsection 1 shall be entitled
9 to a translator if the court determines that an oral or sign
10 language interpretation of a written document is not sufficient
11 to meet the person's due process rights.

12 Sec. 5. Section 622A.3, Code 2014, is amended to read as
13 follows:

14 **622A.3 Costs — when taxed.**

15 1. An interpreter shall be or translator appointed without
16 expense to the person requiring assistance in the following
17 eases: for a limited English proficient participant who is
18 entitled to an interpreter or translator pursuant to section
19 622A.2 shall be paid in accordance with this section and the
20 fees for interpreter or translator services shall not be
21 charged to the limited English proficient participant or the
22 parties in the case.

23 a. If the person requiring assistance is a witness in the
24 civil legal proceeding.

25 b. If the person requiring assistance is indigent and
26 financially unable to secure an interpreter.

27 2. In civil cases, every court shall tax the cost of
28 an interpreter the same as other court costs. In criminal
29 cases, where the defendant is indigent, the interpreter
30 shall be considered as a defendant's witness under rule
31 of criminal procedure 2.15 for the purpose of receiving
32 fees, except that subpoenas shall not be required. If the
33 proceeding is before an administrative agency, that agency
34 shall provide such interpreter but may require that a party
35 to the proceeding pay the expense thereof An oral language

1 interpreter or a translator required for a limited English
2 proficient participant in a judicial branch legal proceeding
3 or a court-ordered program shall be paid by the state court
4 administrator from the revolving fund created in section
5 602.1302, subsection 3.

6 3. ~~Moneys recovered as court costs for interpreters paid~~
7 ~~through the revolving fund established in section 602.1302,~~
8 ~~subsection 3, shall be deposited in that fund~~ An oral
9 language interpreter or a translator required for a limited
10 English proficient participant in a legal proceeding before
11 an administrative agency shall be paid by the appropriate
12 administrative agency.

13 4. A sign language interpreter or a real-time court reporter
14 who assists a deaf or hard-of-hearing participant in a legal
15 proceeding before a court or an administrative agency or in a
16 court-ordered program shall be paid by the county pursuant to
17 section 622B.7.

18 Sec. 6. Section 622A.4, Code 2014, is amended to read as
19 follows:

20 **622A.4 Fee for interpreter and translator services set by**
21 **court or administrative agency — payment.**

22 Every An interpreter or translator appointed by a court
23 or administrative agency shall receive a fee to be set by
24 the court or administrative agency. ~~If the interpreter is~~
25 ~~appointed by the court in a civil case for a person who is~~
26 ~~indigent and unable to secure an interpreter, the fee for the~~
27 ~~interpreter shall be paid from the revolving fund established~~
28 ~~in section 602.1302, subsection 3.~~

29 Sec. 7. Section 622A.5, Code 2014, is amended to read as
30 follows:

31 **622A.5 Oath.**

32 Every An interpreter or translator in any legal proceeding
33 shall take the same an oath as any other witness consistent
34 with rules adopted by the court under this chapter.

35 Sec. 8. Section 622A.6, Code 2014, is amended to read as

1 follows:

2 **622A.6 Qualifications and integrity.**

3 Any court or administrative agency may inquire into the
4 qualifications, neutrality, and integrity of any interpreter
5 or translator, and may disqualify any person from serving as
6 an interpreter or translator.

7 Sec. 9. Section 622A.7, Code 2014, is amended to read as
8 follows:

9 **622A.7 Rules — qualifications and compensation of**
10 **interpreters and translators.**

11 The supreme court, after consultation with the commission
12 of Latino affairs of the department of human rights and other
13 appropriate departments, shall adopt rules governing the
14 qualifications and compensation of interpreters and translators
15 appearing in proceedings before a court or grand jury under
16 this chapter. However, an administrative agency which is
17 subject to chapter 17A may adopt rules differing from those of
18 the supreme court governing the qualifications and compensation
19 of interpreters and translators appearing in proceedings before
20 that agency.

21 Sec. 10. Section 622A.8, Code 2014, is amended to read as
22 follows:

23 **622A.8 ~~Tape~~ Electronic recording of testimony.**

24 ~~A tape~~ An electronic recording of the portion of proceedings
25 where non-English testimony is given shall be made and
26 maintained for one year after entry of the final disposition or
27 sentence, or if the final judgment is appealed, until one year
28 after the final disposition of the appeal.

29 Sec. 11. Section 622B.1, subsection 1, paragraphs c through
30 f, Code 2014, are amended to read as follows:

31 c. "*Hard-of-hearing person*" means an individual who
32 is unable to hear and distinguish sounds within normal
33 conversational range and who needs to use speechreading,
34 assistive listening devices, or ~~oral interpreters~~ other
35 reasonable accommodations to facilitate communication.

d. *"Interpreter"* means ~~an oral interpreter or sign language~~
~~interpreter~~ a person who can accurately transfer the meaning of
words, phrases, or signs in one language into the equivalent
words, phrases, or signs in another language, and includes an
oral language interpreter and a sign language interpreter.

6 e. "Oral language interpreter" means an interpreter who is
7 ~~fluent in transliterating, paraphrasing, and voicing~~ able to
8 interpret from one oral language into a second oral language
9 and from the second oral language into the first oral language.

10 *f. "Sign language interpreter"* means an interpreter who is
11 able to interpret from sign language to ~~English and English to~~
12 sign language into an oral language and from that oral language
13 into sign language.

14 Sec. 12. Section 815.9, subsection 3, Code 2014, is amended
15 to read as follows:

3. If a person is granted an appointed attorney, the person shall be required to reimburse the state for the total cost of legal assistance provided to the person pursuant to this section. "*Legal assistance*" as used in this section shall include not only the expense of the public defender or an appointed attorney, but also transcripts, witness fees, expenses, and any other goods or services required by law to be provided to an indigent person entitled to an appointed attorney, excluding the costs and fees of interpreter and translator services.

26 EXPLANATION

27 The inclusion of this explanation does not constitute agreement with
28 the explanation's substance by the members of the general assembly.

29 This bill relates to interpreters and translators for
30 limited English proficient participants in legal proceedings
31 and in court-ordered programs.

32 The bill provides that a "limited English proficient" (LEP)
33 person who is a participant in any legal proceeding involving a
34 court or an administrative agency or in a court-ordered program
35 shall be entitled to an interpreter or a translator to assist

1 the person in the proceeding or program. LEP is defined as the
2 inability of a person to adequately understand or effectively
3 communicate in the English language because a person's primary
4 language is a language other than English. The bill defines
5 an "interpreter" as a person who can accurately transfer the
6 meaning of words, phrases, or signs in one language into the
7 equivalent words, phrases, or signs in another language and
8 includes an oral language interpreter and a sign language
9 interpreter; a "translator" as a person who can accurately
10 transfer the meaning of written words and phrases in one
11 language into the equivalent written words and phrases in
12 another language; and a "participant" as a party, witness,
13 attorney, or child, including a child who is or may be the
14 subject of a delinquency petition; a parent, guardian, or
15 custodian whose child is or may be the subject of a delinquency
16 petition; or a person who is a guardian, conservator, or
17 trustee in a probate case.

18 The bill provides that fees for interpreter or translator
19 services shall not be charged to an LEP participant in a legal
20 proceeding or court-ordered program and specifies that an
21 LEP participant shall be entitled to a translator in certain
22 circumstances. The bill specifies that an oral language
23 interpreter or a translator required for an LEP participant
24 in a judicial branch legal proceeding or in a court-ordered
25 program is to be paid by the state court administrator from
26 the revolving fund established in Code section 602.1302,
27 subsection 3 (known as the jury and witness fund); an oral
28 language interpreter or a translator required for an LEP
29 participant in a legal proceeding before an administrative
30 agency is to be paid by the appropriate administrative agency;
31 and a sign language interpreter and a real-time court reporter
32 who assist a deaf or hard-of-hearing participant in a legal
33 proceeding before a court or an administrative agency or in a
34 court-ordered program are to be paid by the county pursuant
35 to Code section 622B.7. The bill makes conforming changes

1 excluding the costs of interpreter and translator services
2 from being charged to a parent in a juvenile proceeding (Code
3 section 232.141) and to a person receiving indigent legal
4 assistance services (Code section 815.9).

5 The bill provides additional provisions specifying that fees
6 and qualifications for interpreter and translator services
7 are to be determined by the court or administrative agency,
8 as appropriate; an interpreter or translator in any legal
9 proceeding is required to take an oath consistent with rules
10 adopted by the court under Code chapter 622A (interpreters in
11 legal proceedings); and a court or an administrative agency may
12 inquire into the qualifications, neutrality, and integrity of
13 an interpreter or translator and may disqualify any person from
14 serving as an interpreter or translator. The bill requires
15 electronic rather than audio recordings of the portion of
16 proceedings where non-English testimony is given to be made and
17 maintained for one year after entry of the final disposition
18 or sentence or if applicable, until one year after final
19 disposition of any appeal.

20 The bill makes conforming changes to the definitions of
21 "interpreter", "oral language interpreter", and "sign language
22 interpreter" in Code chapter 622B (deaf and hard-of-hearing
23 interpreters) to be consistent with the definitions in the
24 bill.